

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

PATRICK TORBERT,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:06-CV-823-MEF
)	[WO]
)	
THE OPELIKA CITY JAIL (JAILORS), et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On September 13, 2006, Patrick Torbert ["Torbert"] filed this 42 U.S.C. § 1983 action to challenge actions taken against him at the Opelika City Jail, but he failed to identify the defendants adequately for service and did not name a proper defendant

The court directed Torbert to file an amended complaint and cautioned "that if he fails to comply with the directives of this order the Magistrate Judge will recommend that this case be dismissed." *See Order of September 15, 2006 - Court Doc. No. 4, at 2.* The time allowed for an amended complaint expired on October 2, 2006, without any filing by Torbert.

It is, therefore, the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to comply with the orders of this court and his failure to properly prosecute this action. It is further

ORDERED that on or before October 23, 2006 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the

Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 10th day of October, 2006.

/s/ Delores R. Boyd
DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE